

TOWN OF CARLISLE
BOARD OF SELECTMEN
POLICIES MANUAL

LICENSES FOR SALE OF WINE AND MALT BEVERAGES

STATEMENT OF POLICY

The Board of Selectmen is the Licensing Authority under state law for the award of licenses for the sale of alcoholic beverages in Carlisle. Such licenses are issued to protect the public interest through the controlled and supervised sale of alcohol to responsible adults at acceptable locations. The approval of any such license by the Licensing Authority is discretionary and the mere availability of a license within the quota established by state law does not require the licensing authority to issue the license applied for. The burden is upon the applicant to demonstrate to the satisfaction of the Licensing Authority that the approval of the license will serve a public need and will be carried out in the public interest.

Applications for the sale of alcoholic beverages shall be processed in the manner set forth below and as set forth in Chapter 138. To the extent that these procedures conflict with Chapter 138 or other provisions of law, Chapter 138 shall govern.

The Board of Selectmen will consider each application on its own merits, considering among other relevant factors, the criteria listed below.

EVALUATION CRITERIA UNDER SECTION 15 OF M.G.L. CHAPTER 138 OFF-PREMISE

1. Location: The licensing activity specifically limited to the sale of wine and malt beverages shall occur within the Carlisle Business Districts.
2. Suitability of Premises: The applicant shall demonstrate to the Board that the proposed premises are suitably constructed and lighted so as to advance the supervision and control objectives of the license. Among the factors to be considered are visibility of the interior areas of the store from the street, interior lighting; and the separation of alcoholic beverages from other non-alcoholic beverages.
3. Suitability of Applicant: In addition to the requirements of General Laws, Chapter 138, Section 15, the Selectmen shall consider the Applicant's and/or Manager's experience in the respective retail sales areas as well as their overall background, qualifications, training, and past experience. The applicant shall present details of these qualifications and background so as to demonstrate to the satisfaction of the Board of Selectmen that they are suitable persons to control and supervise the sale of alcohol to the public.

The Manager of the license approved by the Board of Selectmen and all persons responsible for the sale of alcoholic beverages shall complete a course in Beverage Alcohol Training Program (BAT) sponsored by the Massachusetts Package Store Association.

4. Requirements: No license shall be granted to anyone convicted of a felony. All applicants must be at or over 21 years of age. No one under the age of 18 shall sell or deliver alcoholic beverages. No person, firm, corporation, association, or other combination of persons, directly, or indirectly, or through any agent, employee stockholder, officer or other person or any subsidiary whatsoever, shall be granted in the aggregate more than one such license in the town.
5. Hours of Operation: Licensee may make sales on Monday through Saturday between 8:00 a.m. – 11:00 p.m. and between 8:00 a.m. – 11:30 p.m. on the day immediately before a legal holiday if not a Sunday. Licensees may make sales on Sundays between 10:00 a.m. - 11:00 p.m.
6. Holiday Operating Hours: On Memorial Day, Thanksgiving, Christmas Day and the day following when Christmas Day occurs on a Sunday, package stores MAY NOT sell or deliver alcoholic beverages. The sale of alcoholic beverages on all other legal holidays is allowed under the annual or seasonal license. ?

PROCEDURES

- 1.1 A complete application consists of the following:

1. Application for Alcoholic Beverage License.
2. Certified check for \$200.00 payable to the Alcoholic Beverage Control Commission.
3. Check for \$1500 plus costs of advertisement payable to the Town of Carlisle.
4. Tax Law Compliance Form
5. Certified list of abutters (after the hearing has been scheduled and abutters notified, applicant will be required to submit the certified receipts demonstrating that the abutters were notified).
6. Affidavit stating whether a church or house of worship is within 500 feet of said location.
7. Copy of Articles of Incorporation (indicating certification by Secretary of State).
8. Articles of Organization (if a Corp.) as filed with the Mass. Secretary of State (must contain the Seal of the Secretary of State).
9. Record of Corporation's vote by the Board of Directors authorizing the application for a liquor license and appointment of a Manager. All Managers must be U.S. Citizens, and must be at least 21.
10. Proof of real intent in the premises (copy of lease, P&S Agreement or letter of intent from landlord).
11. Financing – Form C filled out by applicant.
12. If applicant is partnership, copy of partnership must be included.
13. A copy of the blueprints or a hand drawn sketch (drawn to scale) of the proposed new premises.
14. Form A – Change of Manager. (If applicable)
15. Information regarding Manager:
 - a. Letter from Carlisle Police Department to Selectmen indicating existence of any criminal record;
 - b. Records check from the Board of Probation;
 - c. Certificate of Completion of Acceptable Training Program;
 - d. List of States in which the Manager has resided.
 - e. Type of Military Discharge, if any.

Application Processing:

- 2.1 Upon receipt of all materials defined in Section 2 above, the date and time of such receipt shall be noted on the "Application", the application shall be advertised in a newspaper of general circulation within ten (10) days of receipt.
- 2.2 The public hearing shall be scheduled no sooner than ten (10) days after the date of advertisement.

- 2.3 The application shall be acted upon within thirty (30) days of the date of receipt as set forth in filing General Laws Ch. 138 5. 15A.
- 2.4 The public notice of the application and hearing shall read as follows:

TOWN OF CARLISLE
APPLICATION FOR LIQUOR LICENSE

(Applicant's full name) / (dba) has applied for a License to sell Alcoholic Beverages to be Consumed off the Premises at (No. and street address or other location description). A public hearing shall be held on the application on (day), (date), (time), at (meeting location) Carlisle, Massachusetts.

(Name of Chairman)

Chairman, Board of Selectmen

- 2.5 The license shall not be issued until the applicant has paid for the advertisement, and all other applicable fees and charges associated with the application, if any.
- 2.6 Applicants for an original license under Chapter 138 Section 15, or someone in his or her behalf, shall, within three days after publication as hereinbefore provided, cause a copy of the published notice to be sent by certified mail to each of the persons appearing upon the assessors' most recent valuation list as the owners of the property abutting on the premises where the license is intended to be exercised and, if a school, church, or hospital, which is located within a radius of five hundred feet from said premises. The notice sent to such school, church or hospital shall indicate the necessity of a written objection to prevent the issuance or transfer of such license under the provisions of Section 16C. An affidavit of the applicant or of the person mailing such notice in his behalf, together with an attested copy of the notice mailed, shall be filed in the office of the local licensing authority, and a certified copy of such affidavit shall be prima facie evidence that such notice has been mailed in accordance with this section. If any abutter or the authorities in charge of any such school, church or hospital shall make complaint in writing to the local licensing authorities that such license was granted or transferred hereunder without such notice having been mailed to him/her or them as required hereby, and after due hearing it appears that such notice was not mailed as aforesaid, the local licensing authorities may cancel the license.

Application Review:

- 3.1 The Police Chief, Fire Chief, Planning Board, and Building Commissioner will be notified of the license application and the scheduled hearing. They will be asked to respond in writing prior to the hearing. Each will be asked to comment on the potential impact on safety and welfare. In addition, The Police Chief will be requested to confirm the applicant's answer to question #14f on the application, and to comment on the potential impact licensure will have on traffic, parking, noise, pedestrian patterns, and safety. The Planning Board and the Building Commissioner will be requested to comment on zoning compliance. The Building Commissioner shall comment on compliance with the State Building Code and submit a report after conducting an investigation of the premises.

Public Hearing:

- 4.1 All licensing authorities must hold a hearing to determine whether or not the issuance of a particular liquor license will have a detrimental effect upon a nearby school or church whether or not such nearby school or church appears or has filed written objections to the issuance of the license. The hearing need not be separate from the hearing the licensing authority normally holds on applications for liquor licenses. See G.L. c.138, s15. However, at the public hearing, the licensing authority should permit the applicant to testify or introduce evidence to show that his establishment, if licensed, will not interfere with the activities at nearby schools and churches. Also, the licensing authority should allow those representatives of the protected churches and schools to present their views, although the presence of such representatives is not needed under the statute. Licensing authorities should not require the applicant to solicit the assent of the church or school officials. Nor should licensure be conditioned upon the assent of the church or school officials. The license should not be denied or granted simply because these officials object or consent to its issuance. The licensing authority must satisfy itself that the issuance of the license will not have an adverse impact upon the church or school.

When deciding whether or not a particular license will be detrimental to the activities of a nearby school or church, the local licensing authorities should focus upon all the activities which are held at that school or church. The local authorities must determine whether or not the licensed premises will adversely affect the social, cultural, educational, and spiritual activities which the school and church sponsors.

- 4.2 The licensing authority must, prior to issuing or denying the liquor license, state the reasons for its decision. The local authorities should be guided by G.L. c.30A, s 11 in writing these decisions. While the law does not state

whether the local authorities must write a decision when it denies a license, the decision should be rendered in writing. Finally, in its decision the authority should advise the applicant that he or she has a right to appeal to the Commission under G.L. c.138, s 67. A public hearing shall be held consistent with the requirements of Section 11 of chapter 30A of the General Laws.

- 4.3 The Board must render its decision based on the strength of the evidence contained in the record, and on the basis of an inquiry into the relevant facts. The Board has the duty to reject an application where the record indicates that to grant it would prove detrimental to the public interest.
- 4.4 The burden is on the applicant to prove that he is entitled to the license and that it will serve the public interest.
- 4.5 The Board may refuse to grant licenses in certain geographical areas of the town where the character of the neighborhood may warrant such refusal.
- 4.6 For incomplete premises, a license may be granted under the condition that such license shall issue upon completion of the premises according to the plans submitted.
- 4.7 The Board shall not receive more than two applications for a license to be exercised on the same premises during the same license year.
- 4.8 Licenses may contain reasonable terms and conditions, and hours of operation as provided by Section 12 of Chapter 138.

Mass. Alcoholic Beverage Control Commission Review

- 5.1 Where the Board has voted to grant a license, a majority of the Board shall sign the completed Form 43.
- 5.2 The following documents shall be forwarded to the A.B.C.C.:
 - 1. Original and one copy of Form 43;
 - 2. Retail License Application form;
 - 3. \$200.00 check or money order;
 - 4. Articles of Organization (if corporation)
 - 5. Copy of Written Partnership Agreement (if partnership)
 - 6. Vote of Board of Directors appointing Manager (if corporation)
 - 7. ABCC Form A
 - 8. Legal Ad, certified;
 - 9. Affidavit, notice and return receipts of notice to abutters;
 - 10. Written determination/non detrimental churches, schools, hospitals;
 - 11. Blue prints/hand drawn floor plan
 - 12. Copy of Lease (if leasing)

13. P&S documents of premises, equipment, furniture
14. Documents verifying sources of financing
15. Tax law attestation.

EVALUATION CRITERIA UNDER SECTION 12 OF M.G.L. CHAPTER 138
ON-PREMISE

1. Location: The licensing activity for the sale of Wine and Malt beverages shall occur within the Carlisle Business Districts.

2. Suitability of Premises: In considering applications for the sale of alcohol to be consumed on the premises the applicant shall demonstrate that the premises contain suitable facilities and equipment for the preparation and service of food. Such facilities and equipment shall include, but are not limited to, a kitchen area for food preparation and equipment for cleaning and sanitizing of utensils all meeting the requirements of the Carlisle Board of Health and the State Sanitary Code; restroom facilities for both patrons and employees meeting state code requirements, adequate ingress and egress; appropriate seating and table layout; layout and lighting adequate for the proper supervision and enforcement of the license by the management and the Town.

It is the intention of the Board of Selectmen that licenses for the sale of alcoholic beverages consumed on the premises are to be granted in connection with the sale and consumption of meals and prepared food on the same premises.

3. Suitability of Applicant: In addition to the requirements of General Laws, Chapter 138, Sections 12, the Selectmen shall consider the Applicant's and/or Manager's experience in the respective retail sales and food service areas as well as their overall background, qualifications, training, and past experience. The applicant shall present details of these qualifications and background so as to demonstrate to the satisfaction of the Board of Selectmen that they are suitable persons to control and supervise the sale of alcohol to the public.

The Manager of the license approved by the Board of Selectmen and all persons responsible for the sale of alcoholic beverages shall complete a course in Training for Intervention Procedures by Servers of Alcohol (TIPS) offered by Health Communication, Inc. or the Serve Safe Alcohol Program sponsored by the National Restaurant Association.

4. Requirements: No license shall be granted to anyone convicted of a violation of federal or state narcotics drug laws. All applicants must be at or over 21 years of age. No one under the age of 18 shall sell or deliver alcoholic beverages.

5. Hours of Operation: Licensee may make sales on Monday through Saturday between 11:00 a.m. – 11:00 p.m.. Licensee may make sales between 12:00 noon and 11:00 p.m. on Sundays.

6. Holiday Operating Hours: No licensee may make sales on Christmas Day (or the day following when Christmas Day is on a Sunday), or Memorial Day, between 1:00 a.m. – 12:00 noon.

PROCEDURES

General: No alcoholic beverage license may be issued as a restaurant unless the Common Victualler is duly licensed under chapter 140. (MGLA Ch 138, Section 12). A common victualler license applicant may concurrently apply for a liquor license.

Application, Concurrent Common Victualler and Liquor License:

- 1.1 An Applicant for a concurrent common victuallers and liquor license must comply with the procedures established herein, and comply with section 2 below.
- 1.2 An Applicant must contact the Carlisle Board of Health and acquire a valid Food Service Permit prior to the hearing on the Common Victualler/Alcoholic Beverage License.
- 1.3 An Applicant must complete a Town of Carlisle Common Victuallers License Application Form.
- 1.4 Concurrent Common Victualler's and Liquor Licenses may be granted for premises which have not, at the time of hearing, been equipped with fixtures or supplied with necessary implements and facilities for the preparation of food on the condition that such license shall be issued only after an inspection demonstrates the completion of the premises as set forth in the plans and cost estimate submitted to the Board at the time of the conditional approval. The decision of the Board as to whether or not said premises are so completed shall be final.

Filing of Application:

- 2.1 A complete application consists of the following:
 1. Application for Alcoholic Beverage License.
 2. Certified check for \$200.00 payable to the Alcoholic Beverage Control Commission.
 3. Check for \$1500 plus costs of advertisement payable to the Town of Carlisle.
 4. Tax Law Compliance Form
 5. Certified list of abutters (after the hearing has been scheduled and abutters notified, applicant will be required to submit the certified receipts demonstrating that the abutters were notified).

6. Affidavit stating whether a church or house of worship is within 500 feet of said location.
7. Copy of Articles of Incorporation (indicating certification by Secretary of State).
8. Articles of Organization (if a Corp.) as filed with the Mass. Secretary of State (must contain the Seal of the Secretary of State).
9. Record of Corporation's vote by the Board of Directors authorizing the application for a liquor license and appointment of a Manager. All Managers must be U.S. Citizens, and must be at least 21.
10. Proof of real intent in the premises (copy of lease, P&S Agreement or letter of intent from landlord).
11. Financing – Form C filled out by applicant.
12. If applicant is partnership, copy of partnership must be included.
13. A copy of the blueprints or a hand drawn sketch (drawn to scale) of the proposed new premises.
14. Form A – Change of Manager (If applicable)
15. Information regarding Manager:
 - a. Letter from Carlisle Police Department to Selectmen indicating existence of any criminal record;
 - b. Records check from the Board of Probation;
 - c. Certificate of Completion of Acceptable Training Program;
 - d. List of States in which the Manager has resided.
 - e. Type of Military Discharge, if any;
16. Information for Transfer of License (if applicable):
 - a. Form 990 – Transfer of License;
 - b. Form 983A – Transfer Form;
 - c. Form 983 – Transfer

Application Processing:

- 2.1 Upon receipt of all materials defined in Section 2 above, the date and time of such receipt shall be noted on the "Application", the application shall be advertised in a newspaper of general circulation within ten (10) days of receipt.
- 2.2 The public hearing shall be scheduled no sooner than ten (10) after the date of advertisement.
- 2.3 The application shall be acted upon within thirty (30) days of the date of receipt as set forth in filing General Laws Ch. 138 5. 15A.
- 2.4 The public notice of the application and hearing shall read as follows:

TOWN OF CARLISLE APPLICATION FOR LIQUOR LICENSE

(Applicant's full name) / (dba) has applied for a License to sell Alcoholic Beverages to be Consumed on the Premises at (No. and street address or other location description). A public hearing shall be held on the application on (day), (date), (time), at (meeting location) Carlisle, Massachusetts.

(Name of Chairman)

Chairman, Board of Selectmen

- 2.5 The license shall not be issued until the applicant has paid for the advertisement, and all other applicable fees and charges associated with the application, if any.
- 2.6 Applicants for an original license under Chapter 138 Section 12 or someone in his or her behalf, shall, within three days after publication as hereinbefore provided, cause a copy of the published notice to be sent by certified mail to each of the persons appearing upon the assessors' most recent valuation list as the owners of the property abutting on the premises where the license is intended to be exercised and, if a school, church, or hospital, which is located within a radius of five hundred feet from said premises. The notice sent to such school, church or hospital shall indicate the necessity of a written objection to prevent the issuance or transfer of such license under the provisions of Section 16C. An affidavit of the applicant or of the person mailing such notice in his behalf, together with an attested copy of the notice mailed, shall be filed in the office of the local licensing authority, and a certified copy of such affidavit shall be prima facie evidence that such notice has been mailed in accordance with this section. If any abutter or the authorities in charge of any such school, church or hospital shall make complaint in writing to the local licensing authorities that such license was granted or transferred hereunder without such notice having been mailed to him/her or them as required hereby, and after due hearing it appears that such notice was not mailed as aforesaid, the local licensing authorities may cancel the license.

Application Review:

- 4.1 The Board of Health, Police Chief, Fire Chief, Planning Board, and Building Commissioner will be notified of the license application and the scheduled hearing. They will be asked to respond in writing prior to the hearing. Each will be asked to comment on the potential impact on public health, safety, and welfare. In addition, The Police Chief will be requested to confirm the applicant's answer to question #14f on the application, and to comment on the potential impact licensure will have on traffic, parking, noise, pedestrian patterns, and safety. The Planning Board and the Building Commissioner will be requested to comment on zoning compliance. The Building

Commissioner shall comment on compliance with the State Building Code and submit a report after conducting an investigation of the premises.

Public Hearing:

- 5.1 All licensing authorities must hold a hearing to determine whether or not the issuance of a particular liquor license will have a detrimental effect upon a nearby school or church whether or not such nearby school or church appears or has filed written objections to the issuance of the license. The hearing need not be separate from the hearing the licensing authority normally holds on applications for liquor licenses. See G.L. c.138, s15. However, at the public hearing, the licensing authority should permit the applicant to testify or introduce evidence to show that his establishment, if licensed, will not interfere with the activities at nearby schools and churches. Also, the licensing authority should allow those representatives of the protected churches and schools to present their views, although the presence of such representatives is not needed under the statute. Licensing authorities should not require the applicant to solicit the assent of the church or school officials. Nor should licensure be conditioned upon the assent of the church or school officials. The license should not be denied or granted simply because these officials object or consent to its issuance. The licensing authority must satisfy itself that the issuance of the license will not have an adverse impact upon the church or school.

When deciding whether or not a particular license will be detrimental to the activities of a nearby school or church, the local licensing authorities should focus upon all the activities which are held at that school or church. The local authorities must determine whether or not the licensed premises will adversely affect the social, cultural, educational, and spiritual activities which the school and church sponsors.

- 5.2 The licensing authority must, prior to issuing or denying the liquor license, state the reasons for its decision. The local authorities should be guided by G.L. c.30A, s 11 in writing these decisions. While the law does not state whether the local authorities must write a decision when it denies a license, the decision should be rendered in writing. Finally, in its decision the authority should advise the applicant that he or she has a right to appeal to the Commission under G.L. c.138, s 67. A public hearing shall be held consistent with the requirements of Section 11 of chapter 30A of the General Laws.
- 5.3 The Board must render its decision based on the strength of the evidence contained in the record, and on the basis of an inquiry into the relevant facts. The Board has the duty to reject an application where the record indicates that to grant it would prove detrimental to the public interest.

- 5.4 The burden is on the applicant to prove that he is entitled to the license and that it will serve the public interest.
- 5.5 The Board may refuse to grant licenses in certain geographical areas of the town where the character of the neighborhood may warrant such refusal.
- 5.6 For incomplete premises, a license may be granted under the condition that such license shall issue upon completion of the premises according to the plans submitted.
- 5.7 The Board shall not receive more than two applications for a license to be exercised on the same premises during the same license year.
- 5.8 Licenses may contain reasonable terms and conditions, and hours of operation as provided by Section 12 of Chapter 138.

Mass. Alcoholic Beverage Control Commission Review

- 5.3 Where the Board has voted to grant a license, a majority of the Board shall sign the completed Form 43.
- 5.4 The following documents shall be forwarded to the A.B.C.C.:
 - 1. Original and one copy of Form 43;
 - 15. Retail License Application form;
 - 16. \$200.00 check or money order;
 - 17. Articles of Organization (if corporation)
 - 18. Copy of Written Partnership Agreement (if partnership)
 - 19. Vote of Board of Directors appointing Manager (if corporation)
 - 20. ABCC Form A
 - 21. Legal Ad, certified;
 - 22. Affidavit, notice and return receipts of notice to abutters;
 - 23. Written determination/non detrimental churches, schools, hospitals;
 - 24. Blue prints/hand drawn floor plan
 - 25. Copy of Lease (if leasing)
 - 26. P&S documents of premises, equipment, furniture
 - 27. Documents verifying sources of financing
 - 28. Tax law attestation.

EVALUATION CRITERIA UNDER SECTION 14 OF M.G.L. CHAPTER 138
SPECIAL (ONE DAY)

General: The Board of Selectmen at their discretion may issue or refuse special liquor license for the sale of beer and/or wine to the manager of any nonprofit organization.

Requirements: Licenses shall not be issued to any person(s), association, partnership or corporation already issued or in the process of being issued a license. Special licenses cannot cover any portion of a currently licensed premise. No license is required where the alcoholic beverages are not placed on sale (example – open bar). No license may be granted on an aggregate of more than 30 days in any calendar year.

Hours: On Monday through Saturday as determined by the Board, except sale cannot be prohibited between 11:00 a.m. – 11:00 p.m. Licensee may make sales between 12:00 noon and 11:00 p.m. on Sundays.

Application Processing:

- 1.1 Applicant shall complete an approved application.
- 1.2 Applications shall be placed on the Selectmen's agenda for action
- 1.3 A copy of the application is delivered to the Police Chief for his/her recommendation.
- 1.4 Applicant shall submit a signed tax law compliance attestation form.

Notice by Local Authority:

- 2.1 Not more than ten days after approving a license pursuant to the provisions of M.G.L. C.138, 5. 14 (Special License) the local licensing authority shall notify the Commission of such approval in writing. Such notice shall include the name of the town, the name and address of the licensee, date of the local authority's approval, the date or dates for which the license is effective, the hours during which sales are authorized, a description of the licensed premises, and whether the licensed activity or enterprise is for profit or nonprofit.

Local Supervision:

- 3.1 Whenever, in the opinion of the local licensing authorities, any applicant for a special license fails to establish to the LLA's satisfaction his compliance with the requirements of M.G.L. C. 138 state or local regulations, or any reasonable requirements which the local authorities may from time to time make with respect to such licenses or to the conduct of business by such licensees, said authorities may refuse to issue or reissue to any such applicant

such license. Whenever in their opinion any special license holder fails to maintain compliance with the requirements of said Chapter, regulations, and requirements, they may modify, suspend, cancel or revoke such license. The licensing authorities shall mail a notice of such action to the applicant or licensee, stating the reasons for such action and shall at the same time mail a copy of such notice to the Commission.

Commission Supervision:

- 4.1 The Commission may investigate the granting of any special license and the conduct of the business being done thereunder, and shall, after hearing, modify, suspend, revoke, or cancel such license if, in its opinion, circumstances warrant.